

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE PROCEDURES DIVISION**

**CHAPTER 1240-5-10
JUDICIAL REVIEW**

TABLE OF CONTENTS

| | | | |
|---------------|--|---------------|-------------------|
| 1240-5-10-.01 | Notice of Entitlement to Judicial Review | 1240-5-10-.02 | Method for Filing |
| | | 1240-5-10-.03 | Clerical Mistakes |

1240-5-10-.01 NOTICE OF ENTITLEMENT TO JUDICIAL REVIEW.

Written notice of the right to seek judicial review of the Final Order and the time within which to file a Petition for Judicial Review of the Final Order shall be contained in the Initial and Final Order sent to the appellant or other party affected by adverse administrative action of the Department.

Authority: T.C.A. §§ 4-5-202, 4-5-314, 4-5-322 and 71-1-105(12). **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983. Amendment filed February 26, 2007; effective May 12, 2007.

1240-5-10-.02 METHOD FOR FILING.

- (1) Proceedings for review are instituted by filing a Petition for Review in a Chancery Court of Tennessee having jurisdiction within sixty (60) days after the Final Order is entered by the hearing official or by the Commissioner or his/her designated representative. Except as provided in paragraph (2), the provisions of T.C.A. § 4-5-322 are applicable to judicial review proceedings.
- (2) Judicial Review of Child Support Administrative Decisions.
 - (a) Except as provided in subparagraph (b), the judicial review of the administrative hearing decisions of child support cases heard by the Department of Human Services under T.C.A. § 36-5-1003 shall be conducted by the court having jurisdiction of the support order provided by T.C.A. § 4-5-322, not by the court in which the petitioner resides or the Chancery Court of Davidson County, Tennessee as applicable to petitions for judicial review in contested cases involving other programs administered by the Department of Human Services.
 - (b) Venue for Petitions for Judicial Review in Child Support Cases When No Previous Support Order Exists or an Out-of-State Order is Being Enforced by the Department of Human Services.
 1. If any administrative action of the Department involving the Title IV-D child support program is not based upon an existing order of support or paternity, the party seeking judicial review shall file the Petition for Review of the Department's actions in the chancery court of the county of the person's residence, or the county where an entity was served with an administrative subpoena or was notified of a request for information.
 2. If the Department is enforcing any order of a Title IV-D agency of any other state and there has been no assumption of jurisdiction of the support order by a Tennessee court, the Petition for Judicial Review shall be filed in the county of the residence of the person in Tennessee against whom the request, administrative order or administrative subpoena is issued or the county where an entity was served with an administrative order, administrative subpoena or was notified of a request for information.

(Rule 1240-5-10-.02, continued)

- (c) Pursuant to T.C.A. § 36-5-101(f)(1) and 42 U.S.C.S § 666 (a)(9)(C), no judicial review may result in the forgiveness or retroactive modification of any child or spousal support arrearages.
- (d) The scope of judicial review of an administrative decision involving the child support program shall be limited to the review of the record of the Department's hearing as otherwise provided in T.C.A. § 4-5-322 for all other cases involving judicial review of agency administrative actions under the Uniform Administrative Procedures Act.

Authority: T.C.A. §§ 4-5-202, 4-5-322, 36-5-101(f)(1), 36-5-1003, 71-1-105(12) and 71-1-111; and 42 U.S.C.S § 666 (a)(9)(C). **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed July 10, 1980; effective August 25, 1980. Amendment filed December 17, 1982; effective March 16, 1983. Amendment filed February 26, 2007; effective May 12, 2007.

1240-5-10-.03 CLERICAL MISTAKES.

- (1) Prior to any appeal being perfected by either party to Chancery Court or to such other court with jurisdiction to conduct a judicial review, clerical mistakes in orders or other parts of the record, and errors therein arising from oversight or omissions may be corrected by the hearing official at any time on the initiative of either the hearing official or on motion of any party and after such notice, if any, as the hearing official may require.
- (2) The entry of a corrected order will not affect the dates of the original appeal time period.

Authority: T.C.A. §§ 4-5-202, 4-5-219 and 71-1-105(12). **Administrative History:** Original rule filed February 26, 2007; effective May 12, 2007.